

REMARKS

Applicants appreciate the Examiner's thorough consideration provided in the present application. Claims 1-7 and 15 are currently pending in the instant application. Claims 1-5, 7 and 15 have been amended. Claim 1 is independent. Reconsideration of the present application is earnestly solicited.

Claim Rejections Under 35 U.S.C. § 112

Applicants appreciate the Examiner's assistance in identifying potential informalities with the claims. Specifically, claims 3 and 4 have been rejected due to the presence of potential informalities with the claims. This rejection is respectfully traversed.

In light of the foregoing amendments to the claims, Applicants respectfully submit that these rejections have been obviated and/or rendered moot. However, Applicants respectfully submit that the foregoing amendments have been made to merely clarify the claimed invention.

Specifically, amended claims 3 and 4 clearly state that "a pulling-off speed" is described as requested by the Examiner. Accordingly, without conceding the propriety of the Examiner's rejections, but merely to timely advance the prosecution of the application, Applicants have incorporated the

changes recommended by the Examiner. Applicants submit that the requested changes do not appear to either raise a substantial question of the patentability of the claimed invention nor do they narrow the scope of the claimed invention.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-7 and 15 stand rejected under 35 USC 102(b) as being anticipated by Lachenmeier et al. (DE 3921190). This rejection is respectfully traversed.

In light of the foregoing amendments to the claims, Applicants respectfully submit that all of the rejections have been obviated and/or rendered moot. Without conceding the propriety of the Examiner's rejection, but merely to expedite the prosecution of the present application, Applicants have amended claim 1 to clarify the claimed invention for the benefit of the Examiner. Accordingly, this rejection has been rendered moot.

Applicants submit that the prior art of record fails to teach or suggest each and every limitation of the unique combination of limitations of the claimed invention. For example, with respect to claim 1, the prior art of record fails to teach or suggest each and every limitation of the unique combination of limitations of the claimed invention, including the feature(s) of: "controlling the

tension of said foil hood or band stock, respectively, during tentering in essentially a horizontal direction above the upper side of said stack of goods *by controlled rolling off of the foil hood or band stock from said gripper means and said reefing devices by rotating the rolls of said reefing devices in a direction opposite to the first rotation direction of the reefing devices utilized during said reefing step.*" Accordingly, this rejection should be withdrawn.

The Examiner is respectfully requested to review steps 2A-2F of the present application to better understand the operation of the present invention. In addition, the Examiner will note that the DE 39 21 190 C2 ('190 reference hereinafter) application relied upon by the Examiner in the Office Action is further described at pages 2 and 3 of the specification of the instant application. With respect to FIG. 2C and the tentering step shown therein, the Examiner will note that '190 reference does not operate in the same manner as the tentering process of the present application (see page 11, lines 4-22).

As seen in FIG. 2A, the rolls (element 10) are rotated in a first direction in order to reef the foil hood (element 6) onto the gripper means (element 8) during the reefing step. In order to control the tension of the foil hood (element 6) during the step of stretching the foil hood (element 6) in a horizontal direction, the rolls are permitted to rotate in a second direction (see FIG. 2C)

opposite to the first direction (shown in FIG. 2A) and controllably roll-off the foil hood as is required to prevent the strong expansion forces and undesirable thinning of the foil hood which is possible in the methods of the background art, e.g., the '190 reference.

In the '190 reference, although the foil hood is stretched with a horizontal movement of the alleged gripper means, there is no corresponding control of the tension, either implicitly or explicitly, of the foil hood by permitting a rolling-off of the foil hood during the tenting process. Specifically, the rolls of the '190 reference are not designed to rotate during the tenting step (horizontal stretching) in opposite directions from that employed during a reefing step. Therefore, Applicants submit that the '190 reference cannot be considered to anticipate the invention of claim 1. Accordingly, this rejection should be withdrawn.

In the claimed invention, the tension of the foil in the region of the foil at the ends of the gripper device (element 8) is controlled to avoid overstretching. For example, the claimed invention is aimed at avoiding the problem of overstretching the foil in the end region of the gripper means during tenting of the foil hood above the stack of goods to be packed (see page 11 of the specification). This is necessary to avoid any damage to the foil in the end

regions that experience the highest tension as they are stretched in the horizontal direction and held by the gripper device.

In the prior art of record relied upon by the Examiner, the necessity of controlling the tension of the foil hood during a tenting step is not identified or discussed. Further, none of the references relied upon by the Examiner teach or suggest the unique combination of limitations of the claimed invention employed for controlling the tension of the foil hood during the tenting step. Accordingly, this rejection should be withdrawn.

In the claimed invention, the control of the tension of the foil hood or band stock during tenting in the horizontal direction above the upper side of the stack of goods is realized by a controlled rolling off of the foil hood or band stock from the gripper device. In contrast, the Lachenmeier et al. reference merely describes (col. 2, line 48 and line 42) that the foil can be stretched in a *vertical* direction, so that a good and remaining stability of the packed goods can be achieved (emphasis added). Further, the present application describes that it is known from the background art that during horizontal movement of the gripper device and the corresponding stretching of the foil, the foil may slide from the gripper device (see col. 1, line 48). As this movement of the foil occurs in the prior art of record, it is clear that any kind of control of the foil

during tenting and/or horizontal movement of the gripper device is not described by the prior art of record.

As to the dependent claims, Applicants respectfully submit that these claims are allowable due to their dependence upon an allowable independent claim, as well as for additional limitations provided by these claims.

In accordance with the above discussion of the patents relied upon by the Examiner, Applicants respectfully submit that these documents, either in combination together or standing alone, fail to teach or suggest the invention as is set forth by the claims of the instant application.

Accordingly, reconsideration and withdrawal of the claim rejection are respectfully requested. Moreover, the Applicants respectfully submit that the instant application is in a condition for allowance.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state-of-the-art, no further comments are necessary with respect thereto.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection

Docket No. 0430-0160P
Appl. No.: 09/924,528
Art Unit: 3721
Amendment dated November 8, 2004
Reply to Office Action of July 8, 2004
Page 12 of 12

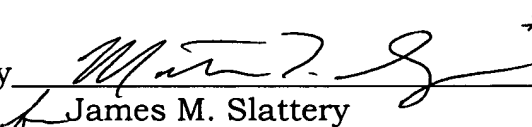
with the present application, and the required fee of \$110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

 #47,074
James M. Slattery
Reg. No. 28,380


JMS/MTS/cl/apw

P. O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000